Supreme Court, U.S.
FILED
971409 FEB 24 1998
OFFICE OF THE CLERK

No. _____

In The

Supreme Court of the United States

October Term, 1997

VINCE KOSKELA, and FRANK RUANO,

Cross-Petitioners,

v.

KING COUNTY, et. al.,

Cross-Respondents.

On Petition For Writ Of Certiorari To The State Of Washington

CROSS PETITION FOR A WRIT OF CERTIORARI

VINCENT J. KOSKELA
FRANK RUANO
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4 pp

QUESTIONS PRESENTED

1. Did the Washington State Supreme Court deny Intervenor Cross Petitioners their right to a fair and impartial hearing under the Due Process clause of the Fourteenth Amendment to the United States Constitution by denying them their right to oral argument before the Supreme Court of Washington, which led to the denial of their right to have a referendum submitted to the voters?

2. Did the Washington State Supreme Court deny Cross Petitioners their right to a fair and impartial hearing under the Due Process clause of the Fourteenth Amendment to the United States Constitution by retroactively creating and applying exclusively to Petitioners and this case new and substantive rules and procedures, including the denial of the right to discovery and a reversal of established rules for the Court's handling of motions for summary judgment?

3. Did the Washington State Supreme Court deny Cross Petitioners their right to a fair and impartial hearing under the Due Process clause of the Fourteenth Amendment to the United States Constitution by demonstrating favoritism, prejudgment, and bias in their rulings?

CROSS PETITION FOR A WRIT OF CERTIORARI

Vince Koskela and Frank Ruano respectfully cross petition for a writ of certiorari to review the judgment and opinion of the Supreme Court of Washington in this case.

I. OPINIONS BELOW

The opinions of the Supreme Court of Washington, both majority and dissent, are reported at 132 Wn.2d 360, 938 P.2d 309 (1997). The unreported memorandum decision of the superior court is included in the appendices of the petitioners.

II. JURISDICTION

The Supreme Court of Washington filed its opinions on June 13, 1997 and entered an order denying Petitioner's motion for reconsideration on October 9, 1997. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(a).

III. CONSTITUTIONAL PROVISION INVOLVED

The Fourteenth Amendment of the United States Constitution provides:

> No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person with its jurisdiction the equal protection of the laws.

IV. STATEMENT

Generally, the individual petitioners agree to all the facts and arguments as outlined in the petitioners for the Taxpayers of King County and of Cross Petitioner Scannell. In the interest of judicial economy, we will not repeat those facts or arguments here. The purpose of this petition is to contest the handling of the appeal in the Washington State Supreme Court as it relates to Vince Koskela.

As stated in the cross petition of John Scannell, the Supreme Court violated their own procedures in refusing to allow any intervenors an opportunity to participate in oral argument. As a result the Supreme Court issued a decision that should have favored the intervenors. When the intervenors filed a reconsideration pointing out the mistake the Supreme Court had made, the Supreme Court issued a new decision correcting their error, but also changing the opinion as it affected Scannell and Ruano.

However, the opinion did not state how Mr. Koskela's claim was affected. The court claimed that Scannell and Ruano should have contested the denial of the original referendum petition of Ordinance 12000, when they filed the suit that was ruled on in *Ruano and Scannell v. State of Washington*, 130 Wn.2d 782 (1996). However, Mr. Koskela was not a participant in that legal action, so he cannot be barred by claim preclusion as the court suggests could be done with Ruano and Scannell.

Laches is also not a factor as suggested by the court, because the action referred to in the opinion, *Lopp v. Peninsula School District*, 90 Wn.2d 754, 585 P.2d 801 (1978) involved bond sales that resulted in damages to

the defendant that were caused by unreasonable delay in bringing the action. The sale of the bonds in the instant case did not occur until the passage of Ordinance 12593 which was just before this suit was filed. Mr. Koskela was denied an opportunity to show there were no damages by the delay in this case.

DATED this 18th day of February, 1998.

FRANK RUANO

VINCENT J. KOSKELA